

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.1.2005

CORAM

THE HONOURABLE MR JUSTICE M. CHOCKALINGAM

CRIMINAL ORIGINAL PETITION NO.29340 OF 2004

Dharamchand

... Petitioner/Accused No.6

Vs.

1. State

rep. by Inspector of Police
E-1, Mylapore police Station
Chennai - 600 004.

2. Jagan @ Jagadeesan

3. Sundar

4. Murugan @ Nondi Murugan

5. Anbu @ Chinnaboobalan

6. Hussain

7. Appu @ Krishnasamy

R2 to R7 were impleaded by order
of this Court dated 19.1.2005
in CrI.M.P.No.325 of 2005

... Respondents

Criminal Original Petition filed under Section 407 of Cr.P.C. to pass an order withdrawing the S.C.No.7 of 2004 from the file of Additional Sessions Court for exclusive trial of Bomb Blasts Cases, Chennai at Poonamallee and to transfer the same to the Principal Judge, City Civil and Sessions Court, Chennai or any other Additional Sessions Judge in the City Civil and Sessions Court at Chennai for enquiry and trial according to law.

For Petitioner : Mr. R. Natarajan

For R1 : Mr.K.Venkataramani, Spl.P.P.
for Mr.S.Jayakumar, A.P.P. &
Mr. A.N. Thambidurai, G.A.
Mr.G.M.Syed Fasiuddin for Intervener

O R D E R

This Criminal Original Petition has been brought forth seeking to pass an order withdrawing the S.C.No.7 of 2004 from the file of Additional Sessions Court for exclusive trial of Bomb Blasts Cases,

Chennai at Poonamallee and to transfer the same to the Principal Judge, City Civil and Sessions Court, Chennai or any other Additional Sessions Judge in the City Civil and Sessions Court at Chennai for enquiry and trial according to law.

2. Heard the learned counsel appearing for the petitioner and the learned Special Public Prosecutor appearing for the State.

3. The only contention putforth by the learned counsel for the petitioner is that the petitioner is shown as an accused in the said case pending on the file of the Additional Sessions Court for exclusive trial of Bomb Blasts Cases, Chennai at Poonamallee in S.C.No.7 of 2004. The case which has been taken on trial should be conducted only by any one of the Courts with the competent jurisdiction within the city of Madras. The respondent registered a case in Crime No.1139 of 2001 for the offence under Sections 448, 307, 332, 506(ii) IPC and 3(1) of the Indian Explosive Substance Act on 7.6.2001 on the basis of the complaint given by the Sub Inspector of Police attached to E-1, Mylapore Police Station against one Jagadeesan and three others. The petitioner was added as an accused along with others. On completion of investigation, a final report filed before the XVIII Metropolitan Magistrate, Chennai in Crime No.1139 of 2001 for an offence under Sections 452, 307, 332, 306(ii) IPC and 120-B IPC and 109 IPC and 3,6,4 9(a) of the Indian Explosive Substances Act was taken on file in P.R.C.No.36/2003 by the said Court and after committal taken on file in S.C.No.7 of 2004.

4. Added further the learned counsel for the petitioner that the final report does not indicate that the alleged act of bomb blast has been committed by any fundamentalist organisation and if that be so, the regular Sessions Court having territorial jurisdiction alone is competent to hold trial. Under the circumstances, the case should not have been taken on file before the Bomb Blasts Court exclusively constituted for the purpose of Bomb blast cases and, hence, it becomes necessary for transfer of the case to the regular Sessions Court within the City of Madras.

5. Learned counsel for the petitioner would further add that from the notification issued by the Tamil Nadu Government in G.O.Ms.No. 700, Home (Court II), dated 3.7.2000 and further notification dated 19.7.2000, it would be clear that the case should not have been taken on file by the Sessions Court for exclusive trial of Bomb Blasts Cases, Chennai at Poonamallee and hence, it has to be transferred to the Principal Judge, City Civil and Sessions Court, Chennai or any other Additional Sessions Judge in the City Civil and Sessions Court at Chennai.

6. Heard the learned Special Public Prosecutor appearing for the State on the above contentions.

7. After careful consideration of the rival submissions made, this Court is of the considered opinion that the criminal original petition carries no merits and requires an order of dismissal.

8. Admittedly, a case came to be registered by the respondent-police for an occurrence that had taken place on 7.6.2001, on the basis of the complaint given by the Sub Inspector of Police attached to E-1, Mylapore Police Station, Chennai against the four accused and pending investigation some other accused were added including the petitioner. A final report was submitted before the XVIII Metropolitan Magistrate, Madras and on committal the case is now pending trial before the Additional Sessions Court for exclusive trial of Bomb Blasts Cases, Chennai at Poonamallee.

9. The only contention put forth by the learned counsel for the petitioner herein is that three Government Orders came to be passed by the Tamil Nadu Government and they were meant only for the purpose of conduct of trial in which the fundamentalist organisation was involved. But in the instant case it is not so and hence the case would not fall within the jurisdiction of the Courts, which were specially constituted for the specific purpose and hence it has to be transferred to the Court of Principal Sessions, which is situated in the city of Madras.

10. Three Government Orders, which were placed in the hands of the Court were perused. On a perusal of the same, the Court has to necessarily disagree with the contention made by the learned counsel for the petitioner. The last Government Order came to be passed on 20.4.2001, wherein the amendment was introduced reads as follows:-

" In the said notifications, for the expression "bomb blasts and seizure of bombs or explosive substances involving any fundamentalist organization", the expression "bomb blasts, seizure of bombs and explosive substances involving any fundamentalist organization as bomb blasts cases and police station attacks involving Tamil Nadu Liberation Army or Tamil Nadu Retrieval Troop or people War Group" shall, respectively, be substituted."

11. A reading of the above Amendment would indicate that it was done only with a view to and it became necessary also to transfer the bomb blast cases pending in different Courts to these specially constituted Courts. The said Amendment would clearly indicate that the bomb blast cases though not involve fundamentalist organizations to be transferred and tried by the Court specially

constituted for the said purpose. Hence, it is needless to state that the Court i.e., the Sessions Court constituted for exclusive trial for bomb blast cases is well vested with the jurisdiction and could proceed with the matter in question. The Court is unable to notice any merit in the contentions putforth by the learned counsel for the petitioner. The criminal original petition fails and the same is dismissed. The stay already granted by this Court is vacated.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Addl. Sessions Judge for
Exclusive Trial of Bomb Blasts Cases,
Chennai at Poonamallee.
2. The Inspector of Police
E-1, Mylapore police Station
Chennai - 600 004.
3. The Public Prosecutor
High Court, Madras.

Two ccs to Mr.R.Natarajan, Advocate SR.1852.

One cc to Govt. Pleader SR.1916.

Cr1.OP.No.29340 of 2004

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